

WA 2917

NOV 25 1988

11/25/1988

HW-112

Stephen A. Sewell
General Counsel
Port of Seattle
Pier 66
2201 Alaskan Way
Seattle, Washington 98121

Dear Mr. Sewell:

This is in response to a letter sent to me by Bradley Marten of Preston, Thorgrimson, Ellis and Holman, dated October 31, 1988. It concerned Environmental Protection Agency (EPA) permit application owner certification requirements. A copy of the letter is enclosed. Mr. Marten asked that I send my response to you.

Mr. Marten's understanding of the Resource Conservation and Recovery Act (RCRA) permit application owner certification requirements is correct. The federal owner/operator certification requirements must be satisfied, in addition to state certification requirements. This is because permit terms issued to satisfy requirements imposed by the Hazardous and Solid Waste Amendments of 1984 will be issued by EPA. The State has not been authorized to administer that part of the RCRA program.

Questions concerning this matter should be addressed to Wallace Reid at 442-5171. Legal questions can be addressed to John Hamill, Senior Associate Regional Counsel at 442-1475.

Sincerely,

/s/George C. Hofer

Michael Gearheard, Chief
Waste Management Branch

Enclosure

cc: Bradley Marten

bcc: John Hamill
George Hofer
Bill Adams
Andy Boyd

USEPA RCRA



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CONCURRENCES

SYMBOL	1890L/pj/BOYD					
SURNAME		BOYD	HOFFER			
DATE						

BRADLEY M. MARTEN

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October 31, 1988

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WASTE MANAGEMENT BRANCH

Mr. Michael Gearheard
U. S. Environmental Protection Agency
Mail Stop HW-112
1200 Sixth Avenue
Seattle, WA 98101

Re: Certification Requirements for Owner of Facility Seeking
RCRA Part B Permit.

Dear Mr. Gearheard:

At the suggestion of Andy Boyd in the Regional Counsel's office, I am writing to confirm my understanding of the requirements for owner certification in a RCRA Part B Permit application. We represent the Port of Seattle which leases property at Pier 91 to Chemical Processors, Inc. ("ChemPro"). ChemPro is applying for a RCRA Part B permit. Federal regulations require the owner and the operator of a facility to make the same certification in a RCRA Part B permit application. 40 CFR §§ 270.10(b), 270.11(d). Such certification states:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

The state of Washington, on the other hand, allows the facility owner to make a somewhat less stringent certification than must be made by the facility operator. Compare WAC 173-303-

Mr. Michael Gearheard
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810(13)(a) with WAC 173-303-810(13)(b). Under the Washington regulations, the owner only need certify that:

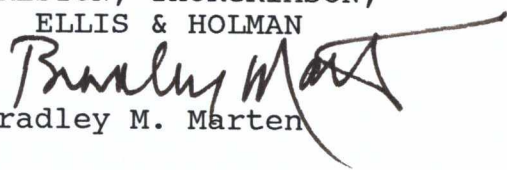
I certify under penalty of law that I own the real property described in, and am aware of the contents of this permit application, and that I have received a copy of this application. As owner of the real property, I understand that I am responsible for complying with any requirements with which only I am able to comply, and that there are significant penalties for failure to comply with such requirements.

My understanding from Andy Boyd is that it is EPA's position that the Port must make both the federal and the state certification in ChemPro's Part B permit application. Such dual certification must be made, as I understand it, because EPA retains independent authority to review ChemPro's permit application as to its compliance with the Hazardous and Solid Waste Amendments of 1984.

I would appreciate your confirming the information set forth above by writing directly to Mr. Stephen A. Sewell, General Counsel for the Port of Seattle. Mr. Sewell's address is Pier 66, 2201 Alaskan Way, 98121. Mr. Boyd indicated that you would be willing to provide such a letter. We appreciate your taking the time to assist the Port in this matter.

Sincerely,

PRESTON, THORGRIMSON,
ELLIS & HOLMAN


Bradley M. Marten

BMM/drg
cc: Mr. Stephen Sewell
Mr. David Aggerholm